

HEIDI C. LANZENDORFER,

MAY 22, 2017

Plaintiff

IN THE COURT OF

vs.

COMMON PLEAS OF

PHILIP BARBERA,

CAMBRIA COUNTY.

and MARILYN BARBERA,

PENNSYLVANIA, CIVIL

Husband and Wife,

ACTION-LAW

PHILIP BARBERA, JR.,

and BARBERA'S, INC.

Defendants,

Case No. 2017-1035

FILED FOR RECORD
2017 MAY 22 PM 2:12
PROTHONOTARY
CAMBRIA COUNTY, PA

MOTION TO STRIKE JUDGMENT

1. The judgment was improperly filed. The praecipe to enter judgment filed by Ronald P. Carnevali, Jr. Esq. on behalf of the plaintiff was improperly filed. An answer to the complaint was filed with the office of the Cambria County Prothonotary on April 21, 2017 a copy is attached. The answer was filed with in the proper time frame.
2. The praecipe to enter judgment in the amount of Nine thousand dollars. (\$ 9000.00) plus trebel damages and attorney fees were never awarded by a court. The office of the District Magistrate Michael Musulin 47-1-01 awarded \$ 2,136.00. That was appealed. A copy is attached.
3. Philip Barbera Jr. and Barbera's Inc. are not the owners of

record for the real estate 244 Maple Ave Johnstown, PA 15901 out of which the civil action was initiated. Therefore are not party to case 2017-1035 and would not be liable for any judgment.

4. The Attorneys for the plaintiff Ronald P. Carnevali and Toby D. Mcilwain and the plaintiff Heidi C. Lanzendorfer are aware of this fact. They were indeed sent copys of the answer to the complaint, and proceeded to file a praecipe to enter judgment with full knowledge that Philip Barbera Jr. and Barbera 's Inc. are not the owners of 244 Maple Ave Johnstown, PA.

5. The defendants were never given the right of due process in their appeal of case 2017-1035. The defendants request the Motion to Strike the judgment in the amount of Nine thousand dollars (\$ 9000.00) be granted, and case 2017-1035 be dismissed on the grounds that attorneys for the plaintiff acted in a manner that would constitute misrepresentation, dishonesty, and deceit when they along with the plaintiff knowingly filed civil action against Philip Barbera Jr. and Barbera's Inc. when it was made aware to them that Philip Barbera Jr. and Barbera's Inc. do not own 244 Maple Ave. Johnstown, PA 15901.

VERIFICATION

Understanding that the making of any false statement would subject me to the penalties of 18pa. C. S. Sec. 4909 relating to unsworn falsification to authorities, I verify that the facts set out in the foregoing pleadings are true and correct, to the best of my

knowledge, information and belief.

A handwritten signature in black ink, appearing to read "Philip Bachner", written over a horizontal dashed line.

CERTIFICATE OF SERVICE

I certify that I mailed a true and correct copy of this Motion to Strike Judgment to via mail Heidi C. Lanzendorfer 163 Benshoff St. Johnstown, PA 15906 and to Ronald P. Carnevali Esq. 1067 Menoher Blvd. Johnstown, PA 15905

A handwritten signature in black ink, appearing to read "Philip Bachner", written over a horizontal dashed line.

-

April 21, 2017


Debbie Martella, Prothonotary
Cambria County Courthouse
200 S. Center Street.
Ebensburg, PA 15931

RE: Heidi C. Lanzendorfer
VS: Philip Barbera and Marilyn
Barbera Husband and Wife
Philip Barbera, Jr. and
Barbera's Inc.
No : 2017-1035

Dear Ms. Martella :

Enclosed for filing, please find an original and (1) copy
of our answer to Complaint in Civil Action relative to the above
captioned matter. I have provided a copy of the answer to Ronald
P. Carnevali Esq. for Plaintiff Heidi C. Lanzendorfer. And One (1)
copy to Heidi C. Lanzendorfer, Plaintiff. to her last known address.

Sincerely



Philip J. Barbera Jr.

FILED FOR RECORD
2017 APR 21 PM 12:34
PROTHONOTARY
CAMBRIA COUNTY, PA

HEIDI C. LANZENDORFER,

Plaintiff

vs.

PHILIP BARBERA,

and MARILYN BARBERA,

Husband and Wife,

PHILIP BARBERA, JR.,

and BARBERA'S, INC.

Defendants,

APRIL 19, 2017

IN THE COURT OF

COMMON PLEAS OF

CAMBRIA COUNTY

PENNSYLVANIA, CIVIL

ACTION-LAW

Case No. 2017-1035

Answer

1. Denied. Plaintiff is known to use multiple addresses.
2. Admitted.
3. Denied Philip Barbera Jr. is not a Pennsylvania resident.
4. Admitted.
5. Admitted.
6. Denied. Lack of personal jurisdiction.
7. Denied. Defendants do not own 244 Maple Ave, Johnstown, PA

FILED FOR RECORD
2017 APR 21 PM 12:34
PROthonotary
CAMBRIA COUNTY, PA

15901.

8-35. Denied. Plaintiff and Counsel for record of party: Ronald P.

Carnevali, Jr. Esq. I.D. NO. 47733. Toby D. Mcilwain, Esq. I.D. NO. 316074 & Spence, Custer, Saylor, Wolfe & Rose. 1067 Menoher Blvd. Johnstown, PA 15905. Failed to name the true and correct owners of 244 Maple Ave. Johnstown, PA 15901.

Verification is null and void due to the lack of a signature date by Ronald P. Carnevali, Jr. Esq.

Respectfully submitted

Philip Barbera

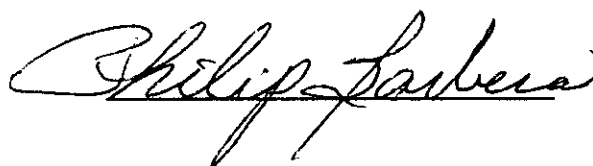
135 Belmont St. Johnstown, PA 15904

Phone # 814-322-5286

Defendant

VERIFICATION


Understanding that the making of any false statement would subject me to the penalties of 18 Pa. C. S. Sec.4909 relating to unsworn falsification to authorities, I verify that the facts set out in the foregoing pleading are true and correct, to the best of my knowledge, information and belief.



Date: APRIL 21 2017

Certificate of Service

I certify that I mailed a true and correct copy of this answer to Heidi C. Lanzendorfer 163 Benshoff St. Johnstown, PA 15906 and also Ronald P. Carnevali Jr. Esq. 1067 Menoher Blvd. Johnstown, PA 15905. on 21 day of APRIL 2017 by U.S. Mail, first class, postage prepaid.





**NOTICE OF
JUDGMENT/TRANSCRIPT CIVIL
CASE**

Mag. Dist. No: MDJ-47-1-01
MDJ Name: Honorable Michael J. Musulin
Address: Central Park Complex
110 Franklin Street, Suite 10
Johnstown, PA 15901
Telephone: 814-539-9982

Heidi C. Lanzendorfer
v.
Philip Barbera, Marilyn Barbera

Philip Barbera
135 Belmont Street
Johnstown, PA 15904

Docket No: MJ-47101-CV-0000098-2016
Case Filed: 11/29/2016

Disposition Summary (cc - Cross Complaint)

<u>Docket No</u>	<u>Plaintiff</u>	<u>Defendant</u>	<u>Disposition</u>	<u>Disposition Date</u>
MJ-47101-CV-0000098-2016	Heidi C. Lanzendorfer	Philip Barbera	Judgment for Plaintiff	03/02/2017
MJ-47101-CV-0000098-2016	Heidi C. Lanzendorfer	Marilyn Barbera	Judgment for Plaintiff	03/02/2017

Judgment Summary

<u>Participant</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Amount</u>
Heidi C. Lanzendorfer	\$0.00	\$0.00	\$0.00
Marilyn Barbera	\$2,136.00	\$0.00	\$2,136.00
Philip Barbera	\$2,136.00	\$0.00	\$2,136.00

Judgment Finding (*Post Judgment)

In the matter of Heidi C. Lanzendorfer vs. Philip Barbera; Marilyn Barbera on MJ-47101-CV-0000098-2016, on 3/02/2017 the judgment was awarded as follows:

<u>Judgment Component</u>	<u>Joint/Several Liability</u>	<u>Individual Liability</u>	<u>Deposit Applied</u>	<u>Amount</u>
Civil Judgment	2,000.00	\$0.00		\$2,000.00
Filing Fees	136.00	\$0.00		\$136.00
			Grand Total:	\$2,136.00

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

MAR 02 2017

Date

Michael Musulin

Magisterial District Judge Michael J. Musulin



I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

Magisterial District Judge

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of

NOTICE OF APPEAL

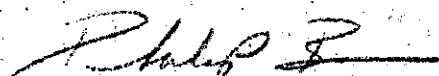
FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 2017-10355

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT PHILIP J MARILYN BARBERA		MAG. DIST. NO. 47-1-01	NAME OF MDJ MICHAEL MUSOLIN	
ADDRESS OF APPELLANT 135 BELMONT ST JOHNSTOWN PA 15404		CITY	STATE	ZIP CODE
DATE OF JUDGMENT 3-2-17	IN THE CASE OF (Plaintiff) LANZENDORFER		(Defendant) BARBERA	
DOCKET No. MS-47101-CV-000098-2016		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 		

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.
This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

Signature of Prothonotary or Deputy

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.D.J. No. 1001(7) in action before Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon HEIDI C. LANZENDORFER appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 2017-1035) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or attorney or agent

RULE: To HEIDI C. LANZENDORFER appellee(s)
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: March 20, 2017

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

Debbie Martella, Prothonotary
Cambria County Courthouse
200 S. Center Street.
Ebensburg, PA 15931

May 22 , 2017

RE: Heidi C. Lanzendorfer
VS: Philip Barbera and Marilyn
Barbera Husband and Wife
Philip Barbera, Jr. and
Barbera's Inc.
No : 2017-1035

Dear Ms. Martella :

Enclosed for filing, please find an original and (1) copy
of our Motion to Strike Judgment relative to the above captioned matter. I
have provided a copy of the motion to strike judgment to Ronald P.
Carnevali Esq. for Plaintiff Heidi C. Lanzendorfer. And One (1) copy to Heidi
C. Lanzendorfer, Plaintiff. to her last known address.

Sincerely

A handwritten signature in black ink, appearing to read "Philip J. Barbera Jr.", written in a cursive style.

Philip J. Barbera Jr.

HEIDI C. LANZENDORFER

Plaintiff(s)

IN THE COURT OF
COMMON PLEAS
CAMBRIA COUNTY,
PENNSYLVANIA

VERSUS

PHILIP BARBERA, MARILYN
BARBERA, PHILIP BARBERA JR
BARBERA'S INC

NO: 2017-1035

Defendant(s)

ORDER TO SET HEARING

AND NOW, this _____ day of _____

_____ upon consideration of the foregoing, it is hereby ORDERED

and DIRECTED that a hearing be held on the foregoing matter. Said

hearing is set for the _____ day of _____

at, _____ PM in Courtroom No. _____ before the

Honorable _____ Judge.

Cambria County Courthouse, Ebensburg, Pennsylvania.

BY THE COURT:
